

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 RITA M. LANE  
Deputy Attorney General  
4 State Bar No. 171352  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2614  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke  
12 Probation Against,

Case No. OA2008-77S

PETITION TO REVOKE PROBATION

13 **DONALD FELIPE HARRIS**  
14 **17050 San Bruno Street, Apt. E11**  
**Fountain Valley, CA 92708**

15 **Occupational Therapy Assistant Certificate**  
16 **No. OTA 1772**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Heather Martin (Complainant) brings this Petition to Revoke Probation solely in her  
22 official capacity as the Executive Officer of the California Board of Occupational Therapy,  
23 Department of Consumer Affairs.

24 2. On or about May 20, 2008, the California Board of Occupational Therapy issued  
25 Occupational Therapy Assistant Certificate Number OTA 1772 to Donald Felipe Harris  
26 (Respondent). The Occupational Therapy Assistant Certificate was in effect at all times relevant  
27 to the charges brought herein and will expire on May 31, 2011, unless renewed.

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1 FIRST CAUSE TO REVOKE PROBATION

2 (Abstain From Controlled Substances)

3 8. The Board's disciplinary order effective on April 23, 2010, contained Probation  
4 Condition 16, Abstain From Controlled Substances, which required Respondent to do the  
5 following:

6 Respondent shall completely abstain from the personal use or possession of  
7 controlled substances, as defined in the California Uniform Controlled Substances  
8 Act, and dangerous drugs as defined in section 4021 and 4022 of the Business and  
9 Professions Code, except when lawfully prescribed by a licensed practitioner for a  
10 bona fide illness.

11 9. Respondent's probation is subject to revocation because he failed to comply with  
12 Probation Condition 16, referenced above. Respondent failed to abstain from the use of  
13 controlled substances when he tested positive for morphine on August 2, 2010 and for  
14 methamphetamine on August 10, 2010.

15 SECOND CAUSE TO REVOKE PROBATION

16 (Abstain From Use of Alcohol)

17 10. The Board's disciplinary order effective on April 23, 2010, contained Probation  
18 Condition 17, Abstain From Use of Alcohol, which required Respondent to do the following:

19 Respondent shall completely abstain from the use of alcoholic beverages  
20 during the period of probation.

21 11. Respondent's probation is subject to revocation because he failed to comply with  
22 Probation Condition 17, referenced above. Respondent failed to abstain from the use of alcohol  
23 when he tested positive for both ethyl glucuronide and ethyl sulfate on July 21 and 27, 2010.

24 THIRD CAUSE TO REVOKE PROBATION

25 (Quarterly Reports)

26 12. The Board's disciplinary order effective on April 23, 2010, contained Probation  
27 Condition 2, Compliance with Probation and Quarterly Reporting, which required Respondent to  
28 do the following:

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1 Respondent shall comply with the terms and conditions of probation  
2 established by the Board and shall cooperate with representatives of the Board in  
3 its monitoring and investigation of the Respondent's compliance with probation.  
4 Respondent, within ten (10) days of completion of the quarter, shall submit  
5 quarterly written reports to the Board on a Quarterly Report of Compliance form  
6 obtained from the Board.

7 13. Respondent's probation is subject to revocation because he failed to comply with  
8 Probation Condition 2, referenced above. Respondent failed to cooperate with representatives  
9 from the Board in its monitoring and investigation of the Respondent's compliance with  
10 probation in that Respondent failed to disclose on his Quarterly Report for the period of July  
11 through September 2010 that he used alcohol on July 21 and 27, 2010, and used controlled  
12 substances on August 2 and 10, 2010. The facts and circumstances are set forth in paragraphs 9  
13 and 11 above.

#### 14 FOURTH CAUSE TO REVOKE PROBATION

15 (Continuing Education)

16 14. The Board's disciplinary order effective on April 23, 2010, contained Probation  
17 Condition 9, Continuing Education Requirements, which required Respondent to do the  
18 following:

19 Respondent shall complete continuing education in the areas of Ethics for  
20 six (6) contact hours and Stress Management for six (6) contact hours within six  
21 (6) months of the effective date of the Decision. Within thirty (30) days of the  
22 effective date of the Decision, Respondent shall submit a written plan to comply  
23 with this requirement. The proposed plan shall include the titles of the courses,  
24 course description or syllabus, the provider, and contract hours. A Board  
25 representative shall approve such plan prior to enrollment of any course of study.

26 The continuing education work shall be in addition to the professional  
27 development activities required for license renewal.

28 Failure to satisfactorily complete the required continuing education as  
scheduled shall constitute a violation of probation. Respondent is responsible for  
all costs of such continuing education. Upon successful completion, Respondent  
shall send the original certificate he receives for the coursework to the Board  
within thirty (30) days of completion. Respondent shall send the original  
certificate to the Board by certified mail, return receipt requested.

15. Respondent's probation is subject to revocation because he failed to comply with  
Probation Condition 9, referenced above. Respondent failed to complete a continuing education

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1 course in Stress Management within 6 months of the effective date of the Decision and provide  
2 the original certificate of completion of the course to the Board.

3 FIFTH CAUSE TO REVOKE PROBATION

4 (Cost Recovery)

5 16. The Board's disciplinary order effective on April 23, 2010, contained Probation  
6 Condition 11, Cost Recovery Requirements, which required Respondent to do the following:

7 Respondent shall reimburse the Board for its costs in the investigation and  
8 enforcement of this matter pursuant to Business and Professions Code section  
9 125.3 in the amount of \$1,522.00. Failure to make payments in accordance with  
any formal agreement entered into with the Board or pursuant to any Decision by  
the Board shall be considered a violation of probation.

10 The Board may conditionally renew or reinstate, for a maximum of one (1)  
11 year, the license of any respondent who demonstrates financial hardship.  
Respondent shall enter into a formal agreement with the Board to reimburse the  
12 unpaid costs within that one (1) year period.

13 Except as provided above, the Board shall not renew or reinstate the license  
of any respondent who has failed to pay all the costs as directed in a Decision.

14 17. Respondent's probation is subject to revocation because he failed to comply with  
15 Probation Condition 11, referenced above. Respondent and the Board agreed on a payment plan  
16 wherein Respondent would make 30 payments to the Board of \$49.10, due on the 23rd of each  
17 month, beginning on July 23, 2010. The 31st payment would be in the amount of \$49.  
18 Respondent failed to make his November 23, 2010 monthly payment to the Board in the amount  
19 of \$49.10 for cost recovery.

20 FACTORS IN AGGRAVATION

21 18. To determine the degree of discipline, if any, to be imposed on Respondent,  
22 Complainant alleges the following aggravating factors. Prior to April 23, 2010, the effective date  
23 of the Decision and Order in this Case, Respondent relapsed and tested positive for morphine,  
24 codeine, cocaine and hydrocodone in drug testing conducted on October 9, 2009, November 6,  
25 2009, December 7, 2009, March 19, 2010 and April 8, 2010 by Western Pacific Stanton Medical  
26 Center. The Board was unaware of these results and Respondent did not disclose these results  
27 prior to entering into the Stipulated Settlement and Disciplinary Order in this case.

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1 PRAYER

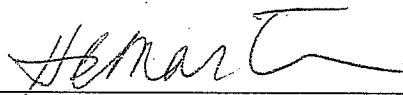
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the California Board of Occupational Therapy issue a decision:

4 1. Revoking the probation that was granted by the California Board of Occupational  
5 Therapy in Case No. OA2008-77 and imposing the disciplinary order that was stayed thereby  
6 revoking Occupational Therapy Assistant Certificate No. OTA 1772 issued to Donald Felipe  
7 Harris;

8 2. Revoking or suspending Occupational Therapy Assistant Certificate No. OTA 1772,  
9 issued to Donald Felipe Harris; and

10 3 Taking such other and further action as deemed necessary and proper.

11  
12 DATED: 8 December 2010

  
HEATHER MARTIN  
Executive Officer  
California Board of Occupational Therapy  
Department of Consumer Affairs  
State of California  
Complainant

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